

ORDINANCE NO. 2018- 07

AN ORDINANCE OF THE
COUNTY COUNCIL OF WARRICK COUNTY, INDIANA,
AUTHORIZING THE ISSUANCE OF ECONOMIC DEVELOPMENT REVENUE
BONDS IN ONE (1) OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT
NOT TO EXCEED TWENTY MILLION AND 00/100 DOLLARS (\$20,000,000.00) AND
APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the County Council (the "County Council") of Warrick County, Indiana (the "County"), has previously adopted a resolution on September 7, 2017 (the "Inducement Resolution") preliminarily expressing interest in the proposed economic development facilities project to be owned and operated by Newburgh AL Developer, LLC, and Newburgh Assisted Living, LLC, one (1) or more subsidiaries or affiliates thereof, and/or one (1) or more entities in which any of the foregoing entities is a member, whether such entity is currently in existence or is to be created following the date hereof (collectively, the "Company"), consisting of the acquisition, construction, renovation, installation, and equipping of a 120-unit affordable assisted living multi-family housing facility, together with functionally related and subordinate facilities for low and moderate-income senior citizens to be located in the County at Grimm Road and Rabbit Run Drive (the "Project"); and

WHEREAS, Indiana Code 36-7-11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the County is authorized to issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing, or refinancing the costs of acquisition, construction, renovation, installation, and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment and affordable housing in or near the County; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer of such bonds and a corporate trustee; and

WHEREAS, the Company has advised the Warrick County Economic Development Commission (the "Commission") and the County concerning the Project, and requested that the County issue one (1) or more series of its taxable or tax-exempt Multifamily Housing Revenue Bonds (Newburgh Assisted Living Project), Series 2018 (with such further series or other designation as determined to be necessary, appropriate or desirable), in an aggregate principal amount not to exceed Twenty Million and 00/100 Dollars (\$20,000,000.00) (the "Bonds"), under the Act and lend all or a portion of the proceeds of such Bonds to the Company for the purpose of paying all or a portion of the costs of the Project, funding a debt service reserve fund and/or other permissible reserves, if necessary, paying capitalized interest, if necessary, and paying all or a portion of the incidental expenses incurred on account of the issuance of the Bonds; and

WHEREAS, the Commission has rendered a report concerning the proposed financing of economic development facilities for the Company and the Area Plan Commission of the County has been given the opportunity to comment thereon; and

WHEREAS, pursuant to the Act, the Commission has considered whether the Project will have an adverse competitive effect or impact on any similar facility or facilities of the same kind already constructed or operating in the same market area or in or about the County; and

WHEREAS, pursuant to Section 24 of the Act, and certain provisions of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, (the "Code"), the Commission held a public hearing on October 4, 2018, following publication of notice duly given (the "Public Hearing") for the purpose of receiving evidence and testimony on the Project and matters related to the proposed financing thereof, and heard all persons interested in the proceedings and considered written remonstrances and objections, if any; and

WHEREAS, following the Public Hearing, the Commission found that the financing of the Project complies with the purposes and provisions of the Act, that such financing will be of benefit to the health and welfare of the County and its citizens through the requirements that the Project serve persons and families of low and moderate income, that the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the project and its viability as a qualified housing project throughout the credit period for the Project, and that the Project satisfied the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan; and

WHEREAS, pursuant to and in accordance with the Act, the County desires to provide funds necessary to finance all or a portion of the Project by issuing the Bonds; and

WHEREAS, the County intends to issue the Bonds consistent with the terms of this Ordinance and pursuant to a Trust Indenture, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the County may hereafter approve) (the "Indenture"), by and between the County and a corporate trustee to be selected by the Company (the "Trustee"), in order to obtain funds to lend to the Company for the purpose of financing all or a portion of the Project, funding a debt service reserve fund and/or other permissible reserves, if necessary, paying capitalized interest, if necessary, and paying all or a portion of the incidental expenses incurred on account of the issuance of the Bonds in accordance with the terms of a Loan Agreement, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the County may hereafter approve) (the "Loan Agreement"), by and between the County and the Company with respect to Bonds and the Project, provided, however, that the aggregate principal amount of the Bonds shall not exceed Twenty Million and 00/100 Dollars (\$20,000,000.00); and

WHEREAS, pursuant to the Loan Agreement, the Company will make certain representations, warranties, and commitments with respect to the Project and will agree to make payments sufficient to pay all principal of, premiums, if any, and interest on the Bonds as the same becomes due and payable, and to pay administrative expenses in connection with the Bonds; and

WHEREAS, no member of the County Council has any pecuniary interest in any employment, financing agreement, or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the County Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16; and

WHEREAS, the Commission approved the terms of the following documents in substantially final form: the Indenture (including a form of the Bonds), the Loan Agreement, the Preliminary Official Statement providing for the marketing of the Bonds (the "Preliminary Official Statement"), the Bond Purchase Agreement among the County, the Company and Citigroup Global Markets Inc. (the "Underwriter") for sale of the Bonds (the "Bond Purchase Agreement"), and the Land Use Restriction Agreement among the County, the Company, and the Trustee (the "Land Use Restriction Agreement" and collectively with the Indenture, the Loan Agreement, the Preliminary Official Statement, and the Bond Purchase Agreement, the "Financing Documents"), and this proposed form of ordinance, each of which were incorporated by reference in the Commission's Resolution adopted on October 4, 2018, which Resolution has been transmitted hereto; and

WHEREAS, based upon the Resolution adopted by the Commission pertaining to the Project, the County Council hereby finds and determines that the funding approved by the Commission for all or a portion of the Project will be of benefit to the health and general welfare of the citizens of the County, complies with the provisions of the Act, and the amount necessary to finance all or a portion of the costs of the Project will require the issuance, sale, and delivery of one or more series of the Bonds in an aggregate principal amount not to exceed Twenty Million and 00/100 Dollars (\$20,000,000.00);

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF WARRICK COUNTY, INDIANA, AS FOLLOWS:

SECTION 1. It is hereby found, determined, ratified, and confirmed that the financing of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, and the loan of the proceeds thereof to the Company for the purpose of financing all or a portion of the Project: (i) will result in the diversification of industry, the creation or retention of business opportunities, the creation of affordable housing, and the creation or retention of opportunities for gainful employment within the jurisdiction of the County; (ii) will serve a public purpose, and will be of benefit to the health and general welfare of the County; and (iii) complies with the purposes and provisions of the Act and is in the public interest that the County take such lawful action as determined to be necessary or desirable to encourage the diversification of industry, the creation or retention of business opportunities, the creation of affordable housing and the creation or retention of opportunities for gainful employment, and providing quality affordable multifamily housing within the jurisdiction of the County.

SECTION 2. The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Warrick County Auditor (the "Auditor").

SECTION 3. The County shall issue its Bonds in one (1) or more series, as described above, in the maximum aggregate principal amount not to exceed Twenty Million and 00/100 Dollars (\$20,000,000.00), with a maximum term not to exceed twenty (20) years and with a maximum interest rate not to exceed six and one-half percent (6.50%) per annum, for the purpose of procuring funds to loan to the Company in order to finance all or a portion of the Project, fund a debt service reserve fund and/or other permissible reserves, if necessary, pay capitalized interest, if necessary, and pay all or a portion of the incidental expenses incurred on account of the issuance of the Bonds.

SECTION 4. The Bonds shall be special, limited obligations of the County payable as to principal and interest solely from payments made by the Company pursuant to the Loan Agreement and the note issued thereunder, and upon such terms and conditions as otherwise provided in the Financing Documents and the Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the County or Commission or a loan of the credit thereof within the meaning of any constitutional or statutory provisions.

SECTION 5. All action taken, and approvals given, by the County with regard to the Company are based upon the evidence submitted and representations made by the Company. No independent examination, appraisal, or inspection of the Project was made, requested, or is contemplated by the Commission or the County.

SECTION 6. The County does not, by this or any other approval or finding, guarantee, warrant, or even suggest that the Bonds, coupons, or series thereof will be a reasonable investment from any person, firm, or corporation, and the Commission shall not be obligated, directly or indirectly, to see to the application or use of the proceeds from the sale of the Bonds to see that the contemplated improvements, if any, are constructed. The Commission is in no way responsible to the holders of any Bonds for any payment obligation created by the Bonds.

SECTION 7. Both the President of the County Council and the Auditor are authorized and directed to sell such Bonds to the purchaser or purchasers thereof at a price not less than ninety-eight percent (98%) of the aggregate principal amount thereof plus accrued interest, if any, at a rate of interest not to exceed six and one-half percent (6.50%) per annum, and with a final maturity no later than twenty (20) years from the date of the issuance of any series of Bonds. The Bond Purchase Agreement, in form and substance acceptable to both the President of the County Council and the Auditor, may be, and hereby is, approved, and both the President of the County Council and the Auditor are hereby authorized and directed to execute and deliver the Bond Purchase Agreement in form and substance acceptable to them and consistent with the terms and conditions set forth in this Ordinance. If necessary or desirable in connection with the sale of the Bonds, each of the President of the County Council, the Auditor, and any other officer of the County is authorized to enter into a continuing disclosure undertaking agreement, in compliance with Rule 15c2-12 of the Securities and Exchange Commission (the "SEC Rule"), which will be in such a form as may be deemed necessary, appropriate, or desirable by each of the President of the County Council, the Auditor, and any other officer of the County, with such to be conclusively evidenced by execution thereof by any such officer. The President of the County Council, the Auditor, or any other officer of the County familiar with the matters with respect to the County set forth in the Preliminary Official Statement is hereby authorized to certify to the Underwriter of the Bonds that the information in the Preliminary Official Statement with respect to the County is deemed to be final within the meaning of the SEC Rule. The Underwriter is hereby authorized to distribute Preliminary Official Statement to potential investors in the Bonds.

SECTION 8. Both the President of the County Council and the Auditor are authorized and directed to execute the Financing Documents, and the President of the County Council, the Auditor, and any officer of the County are authorized and directed to execute such other documents approved or authorized herein and any other document which may be necessary, appropriate, or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the County. The signatures of the President of the County Council and the Auditor on the Bonds may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the County. The signatures of the President of the County Council and the Auditor on the Bonds may be facsimile signatures. The President of the County Council, the Auditor and any other officer of the County are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The President of the County Council, the Auditor, and any other officer of the County may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the President of the County Council, the Auditor, or any other officer of the County without further approval of this County Council or the Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

SECTION 9. The provisions of this Ordinance and the Financing Documents shall constitute a contract binding between the County and the holder or holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders, so long as the Bonds, or the interest thereon remains unpaid.

SECTION 10. It is hereby determined that the amount of the tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the County Council has relied solely upon the representations of the Company. The foregoing determinations shall not be construed to be a representation or warranty by the County as to the feasibility or viability of the Project. The County Council hereby authorizes and directs the President of the County Council to review and make the foregoing determination again for, and on behalf of, the County at the request of the Company, following receipt of supporting materials submitted by the Company to the

Indiana Housing and Community Development Authority ("IHCDA") and either written representations of the Company or of IHCDA to the effect that; (i) the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project; and (ii) the Project satisfied the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan. Such determinations shall occur on or about the date of the sale of the Bonds to the purchasers thereof and on or about the date that each building of the Project is placed in service. In reliance solely upon the representations of the Company, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under IHCDA's qualified allocation plan.

SECTION 11. Subject to the obligations of the Company set forth in the Loan Agreement, the Land Use Restriction Agreement, and/or the certificates or other agreements of the Company to be executed upon the issuance of the Bonds, the County will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to expectations at the time the Bonds are delivered to the purchasers thereof, so that they will not constitute "arbitrage bonds" under Section 148 of the Code, or to preserve any other desired tax status of any series of Bonds under the Code, if necessary. The President of the County Council, the Auditor, or any other officer of the County having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the County, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates, circumstances, and reasonable expectations pertaining to said Section 148 of the Code.

SECTION 12. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Ordinance, the Financing Documents, or under any judgment obtained against the County, including, without limitation, its Commission, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Loan Agreement, shall be had against any member, director, or officer, or attorney, as such, past, present, or future, of the County, including without limitation its Commission, either directly or through the County, or otherwise, for the payment for or to the County or any receiver thereof, or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the County upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer, or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the County or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any at them, shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Loan Agreement and the issuance, sale and delivery of the Bonds.

SECTION 13. The Company will indemnify and hold the County, including its officials, attorneys, employees and agents, free and harmless from any loss, claim, damage, tax, penalty, liability, disbursement, litigation expenses, attorneys' fees and expenses, and other court costs arising out of, or in any way relating to, the execution or performance of the Financing Documents or other documents in connection therewith or any other cause whatsoever pertaining to the Project or the Bonds, including the issuance and sale of the Bonds or failure to issue or sell the Bonds or other actions taken under the Financing Documents or other documents in connection therewith, or any other cause whatsoever pertaining to the Project or the Bonds arising out of a failure or breach of performance by the Company, all as further described in the Loan Agreement, except as a result of the intentional misrepresentation or willful misconduct of the County or its agents in any way relating to the Project or the Bonds.

SECTION 14. The President of the County Council, the Auditor and any other officer of the County are each hereby authorized and directed to execute, attest and deliver such further instruments and

documents and to take such further actions, in the name of and on behalf of the County, as in their judgment shall be necessary, desirable, or appropriate in order to fully consummate the transaction and to effect the purposes of this Ordinance, and any such instruments or documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved. The President of the County Council, or their designee, is hereby authorized to enter into one (1) or more project agreements with the Company, on terms and conditions acceptable to the President of the County Council, together with any all changes as may be necessary, desirable, or appropriate, which shall be evidenced by his execution thereof.

SECTION 15. If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 16. All ordinances, resolutions, and orders or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 17. It is hereby determined that all formal actions of the County Council relating to the adoption of this Ordinance were taken in one (1) or more open meetings of the County Council, that all deliberations of the County Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, *et seq.*, as amended.

SECTION 18. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-2-4, *et seq.*

* * * * *

Passed and adopted by the County Council of Warrick County, Indiana, this 1st day of November, 2018.

COUNTY COUNCIL OF
WARRICK COUNTY, INDIANA

Greg Richmond
Member

Charles R. Johnston
Member

Brad Overk Nay
Member

David Hochmeister NAY
Member

Paul C. [unclear]
Member

[unclear]
Member

ATTEST:

Michael K. [unclear]
Auditor, Warrick County, Indiana

[unclear] NAY
Member

RESOLUTION EDC NO. 2018-01

**A RESOLUTION OF WARRICK COUNTY ECONOMIC DEVELOPMENT
COMMISSION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND
PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED
BONDS FOR NEWBURGH ASSISTED LIVING, LLC**

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the “Act”) declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, Warrick County, Indiana (the “County”) is authorized to issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, installation, and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment and affordable housing in or near the County; and

WHEREAS, Newburgh AL Developer, LLC (the “Developer”) and Newburgh Assisted Living, LLC (the “Owner” and, together with the Developer, the “Company”) desire to finance a project within the County, including all or any portion of the acquisition, design, construction, renovation, installation, and equipping of a 120-unit affordable assisted living multi-family housing facility, together with functionally related and subordinate facilities for low and moderate-income senior citizens, to be located in the County at Grimm Road and Rabbit Run Drive (the “Project”); and

WHEREAS, the Company has advised the Warrick County Economic Development Commission (the “Commission”) and the County concerning the Project, and requested that the County issue one (1) or more series of its taxable or tax-exempt Multifamily Housing Revenue Bonds (Newburgh Assisted Living Project), Series 2018 (or, to the extent such bonds are issued in a calendar year other than 2018, the series designation shall be appropriately modified), in an aggregate principal amount not to exceed Twenty Million and 00/100 Dollars (\$20,000,000.00) (the “Bonds”), under the Act and lend all or a portion of the proceeds of such Bonds to the Company for the purpose of financing all or a portion of the Project, funding a debt service reserve fund and/or other permissible reserves, if necessary, paying capitalized interest, if necessary, and paying all incidental expenses incurred on account of the issuance of the Bonds; and

WHEREAS, the issuance and sale of the Bonds will not reduce the legal bonding capacity of the County, and the County shall bear no expense in connection with the issuance and sale of said Bonds, with all expenses in connection therewith which are incurred by the County to be reimbursed to the County by the Company; and

WHEREAS, the principal of, and interest payable on, the Bonds shall not be payable from any revenues of the County and shall not obligate the full faith and credit of the County but shall be payable solely from funds of the Company; and

WHEREAS, the Commission has studied the Project and the proposed financing of the Project and its effect on the health and general welfare of the County and its citizens; and

WHEREAS, the completion of the Project will result in the diversification of industry, the creation and retention of jobs, the creation and retention of business opportunities in the County, the creation of affordable housing in the County, and will be of public benefit to the health, safety, and general welfare of the County and its citizens; and

WHEREAS, based upon representations made by the Company, the amount of tax credits to be allocated to the Project under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code"), does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project, and the Project satisfies the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan; and

WHEREAS, pursuant to and in accordance with the Act, the County desires to provide funds necessary to finance all or a portion of the Project by issuing the Bonds; and

WHEREAS, the Act provides that such revenue bonds may be secured by and issued pursuant to the terms of a trust indenture between an issuer and a corporate trustee; and

WHEREAS, the County intends to issue the Bonds pursuant to a Trust Indenture, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the County may hereafter approve) (the "Indenture"), by and between the County and a corporate trustee to be selected by the Company (the "Trustee"), in order to obtain funds to lend to the Owner for the purpose of financing all or a portion of the Project, funding a debt service reserve fund and/or other permissible reserves, if necessary, paying capitalized interest, if necessary, and paying all incidental expenses incurred on account of the issuance of the Bonds in accordance with the terms of a Loan Agreement, to be dated the first day of the month in which the Bonds are sold or delivered (or such other date as the officers of the County may hereafter approve) (the "Loan Agreement"), by and between the County and the Owner with respect to Bonds and the Project, provided, however, that the aggregate principal amount of the Bonds shall not exceed Twenty Million and 00/100 Dollars (\$20,000,000.00); and

WHEREAS, pursuant to the Loan Agreement, the Owner will make certain representations, warranties, and commitments with respect to the Project and will agree to make payments sufficient to pay all principal of, premiums, if any, and interest on the Bonds as the same becomes due and payable, and to pay administrative expenses in connection with the Bonds; and

WHEREAS, there has been submitted to the Commission, for its approval, forms of the Indenture, the Loan Agreement, the Preliminary Official Statement providing for the marketing of the Bonds, the Bond Purchase Agreement among the County, the Owner, and the underwriter for the Bonds, and the Land Use Restriction Agreement among the County, the Owner and the Trustee (collectively, the "Financing Documents"), and the form of the proposed Ordinance of the Warrick County Council (the "County Council") with respect to the Project and the Bonds (the "Ordinance"); and

WHEREAS, pursuant to Indiana Code 36-7-12-24, and certain provisions of the Code, and the rules promulgated thereunder, as amended, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance all or a portion of the Project; and

WHEREAS, on the date hereof the Commission held the Public Hearing on the Project; and

WHEREAS, no member of the Commission has any pecuniary interest in any employment, financing agreement, or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Commission and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16.

NOW, THEREFORE, BE IT RESOLVED BY THE WARRICK COUNTY ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies, and confirms that the financing of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance, and sale of the Bonds, and the loan of the net proceeds thereof to the Owner for the purpose of financing all or a portion of the Project: (i) will result in the diversification of industry, the creation or retention of business opportunities, the creation of affordable housing, and the creation or retention of opportunities for gainful employment within the jurisdiction of the County; (ii) will serve a public purpose, and will be of benefit to the health and general welfare of the County; and (iii) complies with the purposes and provisions of the Act and is in the public interest that the County take such lawful action as determined to be necessary or desirable to encourage the diversification of industry, the creation or retention of business opportunities, the creation of affordable housing, and the creation or retention of opportunities for gainful employment within the jurisdiction of the County.

SECTION 2. The Commission hereby determines that the amount of tax credits to be allocated to the Project under Section 42 of the Code does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the Commission has relied upon the representations of the Company. The foregoing determinations shall not be construed to be a representation or warranty by the County or the Commission as to the feasibility or viability of the Project. In reliance upon the representations of the Company, it is hereby found and determined that the Project satisfied the requirements for the allocation of a housing credit dollar amount under IHCD's qualified allocation plan.

SECTION 3. The Commission hereby approves the terms of the Financing Documents and the Ordinance. The forms of the Financing Documents and the Ordinance presented herewith are hereby approved, with any and all such changes as may be deemed necessary, desirable, or appropriate by the County Council, the Warrick County Auditor, or any other officer of the County.

SECTION 4. The Commission hereby approves and recommends the County issue its Bonds, in one (1) or more series, with a maximum aggregate principal amount not to exceed Twenty Million and 00/100 Dollars (\$20,000,000.00), with a maximum term not to exceed twenty (20) years and with a maximum interest rate not to exceed six and one-half percent (6.5%) per annum, for the purpose of procuring funds to loan to the Owner in order to finance all or a portion of the Project, fund a debt service reserve fund and/or other permissible reserves, if necessary, pay capitalized interest, if necessary, and pay all incidental expenses incurred on account of the issuance of the Bonds.

SECTION 5. The Bonds shall be special, limited obligations of the County payable as to principal and interest solely from payments made by the Owner pursuant to the Loan Agreement and the note issued thereunder, and upon such terms and conditions as otherwise provided in the Financing Documents and the Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the County or Commission or a loan of the credit thereof within the meaning of any constitutional or statutory provisions.

SECTION 6. All action taken, and approvals given, by the Commission with regard to the Company are based upon the evidence submitted and representations made by the Company. No independent examination, appraisal, or inspection of the Project was made, requested, or is contemplated by the Commission or the County.

SECTION 7. The Commission does not, by this or any other approval or finding, guarantee, warrant, or even suggest that the Bonds, coupons, or series thereof will be a reasonable investment from any person, firm, or corporation, and the Commission shall not be obligated, directly or indirectly, to see to the application or use of the proceeds from the sale of the Bonds to see that the contemplated improvements, if any, are constructed. The Commission is in no way responsible to the holders of any Bonds for any payment obligation created by the Bonds.

SECTION 8. In order to induce the Company to proceed with the acquisition, design, construction, and equipping of the Project, the Commission hereby finds and determines that: (a) it will take, or cause to be taken, such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof, provided that all of the foregoing shall be mutually acceptable to the County and the Company; and (b) it will adopt such resolutions and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance, and sale of the Bonds.

SECTION 9. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents, and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them to be necessary or desirable in order to carry out and comply with the intent, conditions, and purposes of this Resolution (including the preambles hereto and the documents mentioned herein), the Project and the issuance and sale of the Bonds, and any such execution, performance, approval, or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 10. The Secretary of this Commission shall transmit this Resolution, together with two (2) copies of the forms of the Financing Documents and the Ordinance approved by this Resolution, to the County Council with the recommendation that the County Council approve the forms of the Financing Documents and adopt the proposed Ordinance hereby recommended to the County Council.

SECTION 11. This Resolution shall be in full force and effect upon adoption.

Adopted this 4th day of October, 2018.

WARRICK COUNTY ECONOMIC
DEVELOPMENT COMMISSION

ATTEST:

Secretary